

JOSEPH P. RUSSONIELLO (CABN 44332)  
United States Attorney

BRIAN J. STRETCH (CABN 163973)  
Chief, Criminal Division

BENJAMIN P. TOLKOFF (NYB 4294443)  
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102  
Telephone: (415) 436-7296  
Facsimile: (415) 436-7234  
Benjamin.Tolkoff@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	No. CR 09-0969 JSW
	)	
Plaintiff,	)	STIPULATION AND <del>PROPOSED</del> ORDER
	)	EXCLUDING TIME UNDER FED. R. CRIM.
v.	)	P. 5.1 and 18 U.S.C. § 3161
	)	
ANTOINE DAVIS,	)	
	)	
	)	
Defendant.	)	
_____	)	

On October 14, 2009, the parties in this case appeared before the Court for the defendant's initial appearance. At that time, the parties requested, and the Court agreed, to hold a detention hearing on October 19, 2009. The parties requested that pursuant to Federal Rule of Criminal Procedure ("FRCP") 5.1(d), the time limits set forth in FRCP 5.1(c) be extended through October 19, 2009. On October 19, 2009, the parties appeared before the Court for a

1 detention hearing. At that time the defendant waived the detention hearing without prejudice  
 2 reserving the right to request release in the event that his state parole status changes. The matter  
 3 was set for October 22, 2009 for an initial appearance in district court. The parties requested that  
 4 time from October 19 through October 22, 2009 be excluded under the speedy trial act, 18 U.S.C.  
 5 § 3161, to afford adequate preparation of counsel and assure continuity of counsel. The parties  
 6 agree that, taking into account the public interest in prompt disposition of criminal cases, good  
 7 cause exists for this extension.

8 The defendant also agrees to exclude for this period of time any time limits applicable  
 9 under 18 U.S.C. § 3161. The parties represented that granting the continuance was the  
 10 reasonable time necessary for continuity of defense counsel and effective preparation. 18 U.S.C.  
 11 § 3161(h)(7)(B)(iv). The parties also agreed that the ends of justice served by granting such a  
 12 continuance outweighed the best interests of the public and the defendant in a speedy trial. 18  
 13 U.S.C. § 3161(h)(7)(A).

14 SO STIPULATED:

15  
 16 JOSEPH P. RUSSONIELLO  
 United States Attorney

17  
 18 DATED: October 19, 2009

/s/

19 BENJAMIN P. TOLKOFF  
 Assistant United States Attorney

20  
 21 DATED: October 19, 2009

/s/

22 STEVEN KALAR  
 Attorney for ANTOINE DAVIS

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1 For the reasons stated above, the Court finds that the exclusion of time from October 14  
2 through October 22, 2009 is warranted and that the ends of justice served by the continuance  
3 outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. §3161  
4 (h)(7)(A); FRCP 5.1(d). The failure to grant the requested continuance would deny the defendant  
5 effective preparation of counsel, and would result in a miscarriage of justice. 18 U.S.C.  
6 §3161(h)(7)(B)(iv).

7  
8 SO ORDERED.

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10 DATED: 10/21/09

